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PTO/SB/64 (11-03)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: **Antony R. Van De Ven**

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Application No.: **09/057,838**

Art Unit: **2674**

MAY 13 2004

Filed: **April 9, 1998**

Examiner: **Xiao Min Wu**

OFFICE OF PETITIONS

Title: **TRUE COLOR FLAT PANEL DISPLAY PANEL**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ **1330.00** 37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of **an Amendment** _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

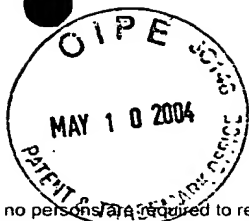
This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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1330.00 OP



3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

5/6/04
Date

[Signature]
Signature

Telephone
Number: 919-854-1400

Timothy J. O'Sullivan Reg. No. 35,632
Typed or printed name

P.O. Box 37428
Address

Raleigh, North Carolina 27627
Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

5/6/04
Date

[Signature]
Signature

Traci A. Brown
Type or printed name of person signing certificate

Attorney Docket No.: 5308-7903

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Van De Ven et al.

Group Art Unit: 2674

Serial No.: 09/057,838

Examiner: Xiao Min Wu

Filed: April 9, 1998

Confirmation No.: 6831

For: True Color Flat Panel Display Panel

RECEIVED

May 6, 2004

MAY 13 2004

OFFICE OF PETITIONS

Mail Stop Petitions
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P.O. Box 1450
Alexandria, VA 22313-1450

**MATERIALS IN SUPPORT OF PETITION FOR REVIVAL
OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)**

Sir:

This Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. § 1.137(b) is submitted in response to the Notice of Abandonment mailed January 27, 2003.

The above-identified application became abandoned for failure to respond to an Office Action within the statutory period of three months from the mailing date of the Office Action mailed July 3, 2002. The date of Abandonment is October 3, 2002 and the Notice of Abandonment was mailed on January 27, 2003. As discussed below, Petitioners submit that the entire delay in responding to the Office Action from the due date for submittal of a response until the filing of a grantable petition under 37 C.F.R. 1.137(b) was not only unintentional, but unavoidable, as neither Petitioners nor Petitioners' representative received the Office Action or the Notice of Abandonment.

In particular, the above referenced application was filed on April 9, 1998. On July 3, 2002, an Office Action was mailed to Philip Summa, Esq., 5925 Carnegie Blvd., Suite 500, Charlotte, NC, 28209. *See* copy of Office Action, attached hereto at Tab 1.

On November 1, 1998, Summa & Allan, P.A. (then "Philip Summa, Patent Attorney") moved its offices from 5925 Carnegie Boulevard, Suite 500, Charlotte, North Carolina 28209, to 13777 Ballantyne Corporate Place, Suite 315, Charlotte, North Carolina 28277. In May 2001, Summa & Allan, P.A. moved to its current location. *See* Declaration of Mary V. Federal attached hereto at Tab 3. Summa & Allan has no record of ever receiving the Office

Action and, thus, despite the use of a forward service, it appears that the Office Action was not forwarded to their new address. *See* Declaration of Mary V. Federal attached hereto at Tab 3. Accordingly, neither Petitioners nor Petitioners' representative ever received the Office Action and, therefore, the lack of response thereto was unavoidable.

A Notice of Abandonment was mailed to Philip Summa, Esq. at the Carnegie Blvd. address on January 27, 2003 for failure to respond to the Office Action. *See* copy of the Notice of Abandonment attached hereto at Tab 2. Summa & Allan has no record of ever receiving the Notice of Abandonment and, thus, despite the use of a forwarding service, it appears that the Notice of Abandonment was not forwarded to their new Address. *See* Declaration of Mary V. Federal attached hereto at Tab 3. Accordingly, neither Petitioners nor Petitioners' representative ever received the Notice of Abandonment and, therefore, the lack of response thereto was unavoidable.

Furthermore, it does not appear that the Office Action or the Notice of Abandonment was received by Petitioners' representative, Myers Bigel Sibley & Sajovec, P.A. *See* Declaration of Timothy O'Sullivan attached hereto at Tab 4.

Petitioners' representative first became aware of the abandonment of the above-reference application on April 19, 2004 in response to an inquiry as to the status of the application. Petitioner's representative contacted Summa & Allan immediately and discovered they had not received the Office Action or the Notice of Abandonment. On April 20, 2004, Petitioners' representative sent by overnight courier a Power of Attorney and Power to inspect to Intellectual Property Concerns which promptly requested the file for copying. On April 28, 2004 a copy of the Notice of Abandonment of January 27, 2003 and an Office Action mailed July 3, 2002 were sent by overnight courier from Intellectual Property Concerns to Myers Bigel Sibley & Sajovec. This was the first time either the Office Action or the Notice of Abandonment was received by Petitioners' representative. The file history was immediately reviewed on May 3, 2004 and it was discovered that the Office Action and Notice of Abandonment were sent to the old address of Summa & Allan. Petitioners' representative immediately began preparing the present Petition and a response to the Office Action.

Accordingly, as discussed above, Petitioners' representative first became aware of the abandonment of the above-referenced application on April 19, 2004 in response to a status inquiry to the Patent Office. The delay between the mailing of the Notice of Abandonment

In re: Van De Ven et al.
Serial No.: 09/057,838
Filed: April 9, 1998
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and Petitioners representative's discovery thereof was caused by the mailing of the correspondence to an old address at which no one associated with the Petitioners or Petitioners' representative were located. As soon as Petitioners' representative became aware of the abandoned status of the above referenced application, Petitioners' representative filed the present Petition and, thus, there was no delay between Petitioners' representative's discovery of the abandoned status of the application and the filing of a petition to revive. Accordingly, Petitioners respectfully request revival of the above-referenced application for at least the reasons discussed above.

A response to the Office Action is submitted concurrently herewith. A copy of the response is provided at Tab 5. A Power of Attorney and Change of Correspondence Address have already been filed in the present application See Tab 5.

A check for \$1330.00 for the petition fee required under 37 C.F.R. § 1.17(m) is submitted herewith. However, the Commissioner is authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 50-0220.

Petitioners respectively request that the above-identified application be revived for at least the reasons discussed above.

Respectfully Submitted,



Timothy L. O'Sullivan
Registration No. 35,632

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer No. 20792

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450:



Traci A. Brown

Date of Signature: May 6, 2004

Attorney Docket No.: 5308-79DV

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Van De Ven et al.

Group Art Unit: 2674

Serial No.: 09/057,838

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For: True Color Flat Panel Display Panel

RECEIVED

MAY 13 2004

OFFICE OF PETITIONS

Mail Stop Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**DECLARATION IN SUPPORT OF PETITION FOR REVIVAL OF AN
APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY PURSUANT TO 37 C.F.R. § 1.137(b)**

Sir:

I, Timothy J. O'Sullivan, hereby declare and state as follows:

1. I am employed by Myers Bigel Sibley & Sajovec, P.A., Suite 600, 4140 Parklake Avenue, Raleigh, North Carolina 27612.
2. I have been a shareholder in the firm of Myers Bigel Sibley & Sajovec, P.A. ("Myers Bigel") since 1998 and have been registered to practice before the United States Patent and Trademark Office since 1992.
3. I have worked with Philip Summa's offices on other cases and in all instances that I am aware of, Mr. Summa's offices have promptly forwarded any correspondence from the Patent Office to Myers Bigel.
4. Myers Bigel maintains a mail log of incoming mail received on a given day. I have electronically searched these mail logs for correspondence from Mr. Summa in about July of 2002 and about January/February of 2003 and located no correspondence from Mr. Summa in that time frame.
5. Based on my review of the Myers Bigel mail logs and the Myers Bigel copy of the present application file it is my understanding that no correspondence was

received by Myers Bigel from either the Patent Office or Mr. Summa subsequent to the recreation of the present file in March of 2002 until a copy of the file was obtained on April 29, 2004.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Timothy J. O'Sullivan

5/6/04

Date